BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 90-781-W/S - ORDER NO. 92-140

MARCH 2, 1992

| | | |
|---|---|---|
| IN RE: Application of Hartwell Utilities, Inc. Requesting an Increase in Water and Wastewater Rates and Charges. | ) ) ) | ORDER APPROVING RATES AND CHARGES |

The matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed by Hartwell Utilities, Inc. (the Company) for approval of a new schedule of rates and charges for water and sewer customers in Oconee County, South Carolina. The Company's Application was filed pursuant to S.C. CODE ANN.§58-5-240 (1976), as amended and Rule 103-821 of the Commission's Rules of Practice and Procedure.

By letter, the Commission's Executive Director instructed the Company to publish a prepared Notice of Filing, one time, in a newspaper of general circulation, in the areas affected by the Company's Application. The Notice of Filing indicated the nature of the Company's Application and advised all interested parties desiring participation in the scheduled proceeding of the manner and time in which to file the appropriate pleadings. The Company was likewise required to notify directly all customers affected by the proposed rates and charges. A Petition to Intervene was filed on behalf of Steven W. Hamm, the Consumer Advocate for the State of South Carolina (the Consumer Advocate). Several protests were also received.

The Commission Staff made on-site investigations of the Company's facilities, audited the Company's books and records, and gathered other detailed information concerning the Company's operations. The other parties likewise conducted their discovery.

A public hearing relative to the matters asserted in the Company's Application was held on February 6, 1992 at 10:30 a.m., in the Hearing Room of the Commission at 111 Doctors Circle, Columbia, South Carolina. Pursuant to §58-3-95 of the South Carolina Code, a panel of three Commissioners composed of Commissioners Bowers, Butler, and Fuller were designated to hear and rule on this matter. Commissioner Cecil A. Bowers presided. James S. Belk, Esquire, represented the Company; Carl F. McIntosh, Esquire, represented the Consumer Advocate; and F. David Butler, Esquire, represented the Commission Staff.

The Company presented the testimony of Jane A. McLamarrah, Senior Design Engineer with Metro Engineering Consultants, Inc., Darrell I. Hardy, Certified Public Accountant, and Patsy L. Carter, General Manager of Hartwell Utilities, Inc. These witnesses explained the services being provided by the Company, the financial statements submitted, the reasons for the requested rates, and the cost of capital requirements. The Consumer Advocate presented the testimony of Philip E. Miller of Riverbend Consulting, who analyzed the Company's Application and revenue requirements. The Commission Staff presented the testimony of

Karen B. Stackley, Accountant, and Charles A. Creech, Chief of the Water and Wastewater Department, Utilities Division.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Hartwell Utilities, Inc. is a corporation organized in the State of South Carolina, which falls under the jurisdiction of the Commission. Hartwell Utilities, Inc. is a water and sewer utility, operating in the State of South Carolina, and is subject to the jurisdiction of the Commission pursuant to S.C. CODE ANN.§58-5-10 (1976), *et. seq.*, Application of the Company.

2. Hartwell Utilities, Inc. provides water and sewer service to 194 customers in the Chickasaw Point, Fair Play area of Oconee County, South Carolina. The Company's home office is located in Westminister, South Carolina at 102 Lilac Drive.

3. The Company has previously appeared before the Commission in Docket No. 80-373-W/S, in an Application for Establishment of Water and Sewer Rates and Charges. In Order No. 81-23, dated January 6, 1981, the Commission found the Company to be fit, willing, and able to provide water and sewer service, and approved a schedule of rates and charges for the Company. The Company is currently seeking its first rate increase since such establishment.

4. In its present Application, the Company requested additional revenues of $59,047, which Staff verified by calculation. The operating margin after *pro forma* adjustments, before the proposed increase was (234.53%). After the proposed increase, the Company would have an operating margin of (28.62%).

5. At present, with regard to water, Hartwell Utilities, Inc. charges a basic facility charge of $5.00 per month, which includes the first 2,000 gallons, and a 50¢ per 1,000 gallon commodity charge for all water over 2,000 gallons. The Company also charges a $250.00 water tap fee. With regard to sewer, the Company presently charges a flat rate of $10.00 per month, with a tap fee of $250.00.

6. With regard to proposed water charges, the Company proposes to charge a $15.00 per month basic facility charge, which includes the first 2,000 gallons of water, and a $3.00 commodity charge per 1,000 gallons for all water over 2,000 gallons. The Company also proposes to increase its water tap fee from $250.00 to $400.00, and the Company proposes to establish a reconnect fee of $40.00. With regard to proposed sewer charges, the Company proposes to charge a flat rate of $20.00 per month. The Company also proposes to increase its sewer tap fee from $250.00 to $350.00.

7. The percentage of increases, if granted, would amount to 257.85% in water revenue and 100% in sewer revenue, for a combined percentage of 161.17% in total revenue.

8. The Company proposes the appropriate test period to consider its requested increase as a twelve month period ending December 31, 1990. No objections were registered to the use of this twelve month period.

9. The Company asserts that this requested rate increase is required because the Company showed a negative operating margin

after accounting and pro forma adjustments of (234.53%) for the test year.

10. The Commission holds that a $22,169 (60.51%) increase in operating revenues is appropriate. In arriving at this figure, the Staff proposed a number of adjustments to the Company's expenses.

## ACCOUNTING AND PRO FORMA ADJUSTMENTS

The evidence supporting these adjustments is found in the testimony and exhibits of Company witnesses McLamarrah, Hardy, and Carter, Consumer Advocate witness Miller, and Commission Staff witnesses Stackley and Creech. The adjustments, as listed in this Order, are for combined water and sewer operations.

First, the Staff proposes to remove tap fees from operating revenue in accordance with Commission procedures. Such tap fees were booked as revenue by the Company during the test year. The Commission believes this is reasonable and approves the Staff's adjustment of ($5,616).

Staff proposes to remove availability fees from operating revenue in accordance with Commission procedures. Such availability fees were booked as revenue by the Company during the test year. The Staff proposes an adjustment to operating revenue of ($99,826). The Consumer Advocate opposes this adjustment and states that availability fees should remain in operating revenues. The Consumer Advocate states that removing availability fees from operating revenues ignores that fact that the Company is currently incurring operating expenses which inure to the benefit of those customers who own undeveloped lots in the areas served by the utility. As such, the Consumer Advocate states that removal shifts all these costs to the customers who are being billed for water and sewer service, which results in rates that are unfair and excessive. We hold, however, that the Staff's adjustment of ($99,826) is appropriate. The Commission has held in the past and holds today that availability fees are the result of a contract between the developer and the land owner. We continue to take the position that the utility is not a party to this contract, and as such, these fees should not be regulated by this Commission. Therefore, the Staff's adjustment is appropriate.

Staff proposes to adjust per book revenue based on billing units and consumption. The Staff adjustment of $673 is approved. Also, the Staff proposes to allocate a portion of the salary of the General Manager out of the expense of the utility. This salary relates to the Scenic Realty Company, which is also owned by Hartwell Utilities' parent corporation. The Staff's adjustment of ($2,106) to general expenses is hereby approved. Staff also proposes to allocate the payroll taxes associated with the allocation of salaries to the Scenic Realty work performed by the General Manager. An adjustment of ($187) to the Other Tax category is indicated and approved. Staff proposes to allocate a portion of local travel and yard maintenance to the Scenic Realty Company. Staff's proposed adjustment of ($345) to general expense is approved. Further, Staff proposes to allocate a portion of office supplies, postage, and office repairs to the Scenic Realty

Company. In doing so, Staff proposes an adjustment of ($515) to general expenses. The Commission believes this is appropriate, and the adjustment is hereby approved. Also, Staff proposes to adjust a portion of the telephone expense out of the expense of the utility. This telephone expense is for Scenic Realty's direct telephone number. A general expense adjustment of ($1,356) proposed by Staff is appropriate. Staff proposes to allocate a portion of the office electric expense to the Scenic Realty Company. Staff's adjustment of ($783) is therefore approved to general expense. In addition, the Staff proposes to allocate a portion of the insurance for the office building and office contents to the Scenic Realty Company. Staff's adjustment of ($495) to general expense is therefore approved. Also, the Staff proposes to allocate a portion of the depreciation expense of furniture, office building, and the remodeling of the office building to the Scenic Realty Company. An adjustment to depreciation of ($636) is therefore approved. Staff proposes to amortize rate case expenses over a three year period, and proposes a ($1,568) adjustment to general expenses. This is appropriate, and is therefore approved. Staff proposes to adjust depreciation expense using year-end plant levels and depreciation rates applied by the Water and Wastewater Department of the Commission Staff. An adjustment to depreciation of ($6,390) proposed by the Staff is therefore approved. During the hearing, Staff witness Stackley pointed out that since the Company has a negative rate base, no depreciation expense should be allowed. The Consumer Advocate also takes this position. The Commission agrees with the Staff and the Consumer Advocate on this issue. Therefore, no depreciation expense is appropriate for this proceeding. Further, Staff proposes to eliminate customer growth on an as adjusted basis. Since an as adjusted net operating net income on sewer operations is a negative amount, Staff's adjustment of ($157)to customer growth is therefore appropriate and approved. It should be noted that the Consumer Advocate, as per the testimony of Philip Miller, agrees with Staff's positions on these operating expenses.

## RATE BASE

The Staff proposes to adjust a portion of furniture, office building, and office remodeling to the Scenic Realty Company. Staff proposes an adjustment of ($12,066) to plant in service, and $2,164 to accumulated depreciation. This proposal is approved. Staff proposes to adjust cash working capital for adjustments which correct the books. Staff recommends a ($700) adjustment to cash working capital, which is hereby approved. Staff proposes to restate accumulated depreciation based on approved depreciation rates applied by the Water/Wastewater Department. Staff's adjustment of $20,352 to accumulated depreciation is approved. The Staff proposes to remove from rate base all tap fees, and availability fees collected by the Company. The adjustment includes amounts collected during the test year and prior years. Such tap fees and availability fees are considered to be Contributions In Aid of Construction for ratemaking purposes. The

Staff's proposed adjustment of ($656,452) is hereby approved. The Staff proposes to record the effects of the increase as given by this Commission. The figure of $22,169 of operating revenue, and $190 in taxes other than income taxes is hereby approved.

## TOTAL INCOME FOR RETURN

The Company's appropriate total income for return, for the test year, after accounting and *pro forma* adjustments is a ($63,944). Based upon the above determination concerning the accounting and *pro forma* adjustments to the Company's revenue and expenses, the Commission concludes that the total income for return is as follows:

**TABLE A**
**NET INCOME FOR RETURN**

**BEFORE RATE INCREASE**

| | |
|---|---|
| Operating Revenues | $ 36,637 |
| Operating Expenses | 122,560 |
| Net Operating Income | ($85,923) |
| Customer Growth | -0- |
| Total Income for Return | ($85,923) |

Under the guidelines established in the decisions of *Bluefield Waterworks and Improvement Co. v. The Public Service Commission of West Virginia*, 262 U.S. 679 (1923), and *Federal Power Commission v. Hope Natural Gas Company*, 320 U.S. 591 (1944), this Commission does not ensure through regulation that a utility will produce net revenues. As the United States Supreme Court noted in *Hope*, a utility "has no constitutional rights to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." However, employing fair and enlightened judgment, and giving consideration to all relevant facts, the Commission should establish rates which will produce revenues, "sufficient to ensure confidence in the financial soundness of the utility, and ... that are adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Bluefield, supra, at 692-693.

There is no statutory authority prescribing the method which this Commission must utilize to determine the lawfulness of the rates of a public utility. For a water and sewer utility whose rate base has been substantially reduced by customer donations, tap fees, contributions in aid of construction, and book value in excess of investment, the Commission may decide to use the "operating ratio" and/or "operating margin" method for determining just and reasonable rates. The operating ratio is a percentage obtained by dividing total operating expenses by operating revenues; the operating margin is determined by dividing the net operating income for return by the total operating revenues of the utility. This method was recognized as an acceptable guide for ratemaking purposes in Patton v. The South Carolina Public Service Commission, 280 S.C. 288, 312 S.E.2d 257 (1984).

The Commission concludes that the use of the operating margin is appropriate in this case. Based on the Company's gross revenues for the test year, after accounting and pro forma adjustments under the presently approved schedules, the Company's operating expenses for the test year, after accounting and pro forma adjustments and customer growth, the Company's present operating margin is as follows:

**TABLE B**
**OPERATING MARGIN**

**BEFORE RATE INCREASE**

| | |
|---|---|
| Operating Revenues | $ 36,637 |
| Total Operating Expenses | 122,560 |
| Net Operating Income | ($85,923) |
| Customer Growth | -0- |
| Total Income for Return | ($85,923) |
| Operating Margin | (234.53%) |

The Commission is mindful of the standards delineated in the Bluefield decision and of the need to balance the respective interests of the Company and of the consumer. It is incumbent upon this Commission to consider not only the revenue requirements of the Company but also the proposed price for the water and sewer service, the quality of the water and sewer service, and the effect of the proposed rates upon the consumer. See, Seabrook Island Property Owners v. South Carolina Public Service Commission, Opinion No. 23351, (filed February 25, 1991); S.C. CODE ANN.,§58-5-290 (1976), as amended. The three fundamental criteria of a sound rate structure have been characterized as follows:

> ...(a) the revenue-requirement or financial-need-objective, which takes the form of a fair-return standard with respect to private utility companies; (b) the fair-cost apportionment objective, which invokes the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service; and (c) the optimum-use or customer rationing under which the rates are designed to discourage the wasteful use of public

> utilities services while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received.
>
> Bonbright, Principles of Public Utility Rates, (1961), p. 292.

Based on the considerations enunciated in Bluefield and Seabrook Island, and on the fundamental criteria of a sound rate structure as stated in Principles of Public Utility Rates, the Commission determines that the Company should have the opportunity to earn a (108.74%) operating margin for its operations. In order to have reasonable opportunity to earn a (108.74%) operating margin, the Company will need to produce $58,806 in annual operating revenues.

**TABLE C**
**OPERATING MARTIN**

**AFTER RATE INCREASE**

| | |
|---|---|
| Operating Revenues | $ 58,806 |
| Total Operating Expenses | 122,750 |
| Net Operating Income | ($63,944) |
| Customer Growth | -0- |
| Total Income for Return | ($63,944) |
| Operating Margin (After Interest) | (108.74%) |

In fashioning rates to give the Company a required amount of operating revenue so that it will have the opportunity to achieve a (108.74%) operating margin, the Commission has carefully considered the concerns of the Company's customers. The Commission concludes that while an increase in rates is necessary, the proposed increase is unreasonable, unjust, and inappropriate.

The Company's proposal to increase its minimum monthly basic facility charge for water from $5.00 to $15.00 for the first 2,000 gallons of water is found to be excessive and unreasonable by the Commission, as is the Company's proposal to increase the commodity charge from 50¢ per thousand gallons to $3.00 per thousand gallons for water above 2,000 gallons. To design the rates to earn the appropriate level of revenues, the Commission concludes that the minimum monthly basic facility charge should remain at $5.00, however, the Commission believes that the commodity charge should be increased from 50¢ per thousand gallons to $2.50 per thousand gallons for water over 2,000 gallons. Further, the Company's proposed tap fee increase from $250.00 to $400.00 is deemed reasonable by this Commission, and is therefore granted, as is the Company's proposed reconnect fee of $40.00. These charges are just and reasonable. With regard to sewer charges, this Commission believes that an increase in the flat rate from $10.00 per month to $20.00 per month is unjust and unreasonable. However, the Commission does believe that an increase from $10.00 to $15.00 per month in the flat rate for sewer is just and reasonable. In addition, the Company believes that an increase in the sewer tap fee from $250.00 to $350.00 is unjust and unreasonable, but hereby approves an increase from $250.00 to $320.00 as just and reasonable.

Based on the considerations and reasoning as stated above, the Commission hereby approves the rates and charges as stated in this Order and as attached hereto as Appendix A as being just and reasonable. The rates and charges approved are designed in such a manner in which to produce and distribute the necessary revenues to provide the companies the opportunity to earn the approved operating margin. Accordingly,

IT IS ORDERED:

1. That the rates and charges attached on Appendix A are hereby approved for service rendered on and after March 9, 1992.

2. That this rate schedule is hereby deemed to be filed with the Commission pursuant to S.C. CODE ANN., §58-5-240 (1976), as amended.

IT IS FURTHER ORDERED:

1. That should the approved schedule not be placed into effect within three (3) months after the effective date of this Order, the approved schedule shall not be charged without further approval by the Commission.

2. That the Company maintain its books and records for water and sewer operations in accordance with the NARUC Uniform System of Accounts for Class A and B Water and Sewer Utilities, as adopted by this Commission.

3. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Marjorie Amos-Frazier

Chairman

ATTEST:

Charles W. Ballentine

Executive Director

(SEAL)

## APPENDIX A

HARTWELL UTILITIES, INC.
P.O. Box 68
Fair Play, S.C. 29643
(803) 972-3387

FILED PURSUANT TO DOCKET NO. 90-781-W/S - ORDER NO. 92-140
EFFECTIVE DATE: MARCH 9, 1992

**THE SCHEDULE OF RATES AND CHARGES ARE AS FOLLOWS:**

**DOMESTIC WATER**

| | | |
|---|---|---|
| Minimum monthly charge | | |
| for first 2,000 gallons | - | $ 5.00 |
| per 1,000 gallons over 2,000 gallons | - | $ 2.50 |
| Tap Fee | - | $400.00 |
| Re-connect Fee | - | $ 40.00 |

**DOMESTIC SEWER**

| | | |
|---|---|---|
| Monthly charge | - | $ 15.00 |
| Tap Fee | - | $320.00 |